

## REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated December 9, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2 and 5-14 are pending in the Application. Claims 1, 5 and 11 are independent claims.

In the Office Action, claims 1-2 and 5-14 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,610,046 to Usami et al. ("Usami") in view of U.S. Patent Publication No. 2002/0013615 to Haim ("Haim"). This rejection is respectfully traversed. It is respectfully submitted that claims 1-2 and 5-14 are allowable over Usami in view of Haim for at least the following reasons.

The Office Action utilizes Usami for showing a catheter used for injection of a therapeutic drug. Haim is utilized for showing all the remaining elements of claims 1-2 and 3-14. In particular, the Office Action equates "an active locator configured to provide coordinates to determine a spatial position and/or orientation of the catheter" as for example recited in claim 1, with the position sensor of Haim described in Haim, paragraph [0028].

It is respectfully submitted that reliance on this portion of Haim or any portion of Haim for that matter is misplaced. A close inspection of the Haim, paragraph [0028], reveals the following (emphasis added):

a retraction mechanism coupled to the needle which projects and retracts the needle into and out of the catheter . . . a sensor is coupled to the retraction mechanism or to the needle itself, so as to sense when the needle has been

fully projected out of the catheter. . . the sensor also senses when the needle has been fully retracted into the catheter.

Haim, paragraph [0028] concludes by stating that drug administration is automatically disabled except when the catheter is (1) in appropriate contact with a heart wall and (2) the needle is projected to a desired length. The contact of the catheter with the heart is described, for example, in Haim, paragraph [0105] as follows (emphasis added):

"one or more contact sensors 36, for example, pressure sensors, which generate signals responsive to contact between distal end 22 and the heart wall so to assure proper contact between the catheter and the wall before extension of needle 24.

Thus, it is respectfully submitted that by teaching automatically disabling drug administration in reliance on a contact sensor and the needle retraction mechanism sensor, Haim teaches away from using its positioning sensor to control "injection of the filling material" as recited in claim 1.

It is respectfully submitted that the catheter apparatus of claim 1 is not anticipated or made obvious by the teachings of Usami in view of Haim. For example, Usami in view of Haim does not teach, disclose or suggest, a catheter apparatus that amongst other patentable elements, comprises (illustrative emphasis added) a monitoring unit comprising "an active locator configured to provide coordinates to determine a spatial position and/or orientation of the catheter" and "the monitor is configured to monitor the spatial position and/or orientation of the catheter to detect emergence of the catheter from the aneurysm during the injection of the filling material into the aneurysm, and configured to stop the supply of the filling material in response to the detected emergence" as recited in claim 1, and as similarly recited in each of claims 5 and 11.

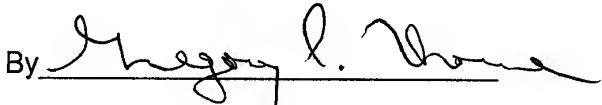
Based on the foregoing, the Applicants respectfully submit that independent claims 1, 5 and 11 are patentable over Usami in view of Haim and notice to this effect is earnestly solicited. Claims 2, 6-10 and 12-14 respectively depend from one of claims 1, 5 and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

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Serial No. 10/598,567  
Amendment in Reply to Office Action of December 9, 2009

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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